

FILED

Matthew T. Ward (Bar No. 180016)
mward@archernorris.com
Andreas Wokutch (Bar No. 280294)
awokutch@archernorris.com
Rassa Ahmadi (Bar No. 287576)
rahmadi@archernorris.com
ARCHER NORRIS
4695 MacArthur Court, Suite 350
Newport Beach, CA 92660-8816
Telephone: 949.975.8200
Facsimile: 949.975.8210

2013 SEP -6 PM 2: 59

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
RIVERSIDE

BY: _____

Attorneys for Plaintiffs RICHARD M. HUGHES,
JAMES K. LUST, RICHARD COOK, MARY D.
COOK

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, EASTERN DIVISION

ED CV 13 - 01605

RICHARD M. HUGHES, JAMES K.
LUST, RICHARD COOK, MARY D.
COOK,

Case No.

COMPLAINT FOR DAMAGES

Plaintiffs,

v.

ED PENDLETON, an individual;
BEVERLY PENDLETON, an
individual; and DOES 1 through 50,

Defendants.

1. **Fraud- Intentional
Misrepresentation**
2. **Fraud- Suppression of Fact**
3. **Financial Elder Abuse**
4. **Breach of Fiduciary Duty**

DEMAND FOR JURY TRIAL

COMES NOW Plaintiffs, RICHARD M. HUGHES, JAMES K. LUST,
RICHARD COOK, and MARY D. COOK, who complain and allege as follows:

PARTIES

1. At all times mentioned, RICHARD M. HUGHES was a citizen of the State of California.
2. At all times mentioned, RICHARD COOK was a citizen of the State of California.

1 3. At all times mentioned, MARY D. COOK was a citizen of the State of
2 California.

3 4. At all times mentioned, JAMES K. LUST was a citizen of the State of
4 South Dakota, who also at all relevant times resided from time to time in the State
5 of California and was over the age of 65 at all relevant times in this action.

6 5. PLAINTIFFS are informed, believe and thereon allege that Defendant,
7 ED PENDLETON is, and at all relevant times herein, was a citizen of the State of
8 Colorado.

9 6. PLAINTIFFS are informed, believe and thereon allege that Defendant,
10 BEVERLY PENDLETON is, and at all relevant times herein, was a citizen of the
11 State of Colorado.

12 7. PLAINTIFFS are ignorant of the true names and capacities of
13 Defendants sued herein as DOES 1-50, inclusive, and therefore sue them by the
14 foregoing names which are fictitious. PLAINTIFFS are informed and believe, and
15 thereon allege, that at all times herein mentioned, Defendants DOES 1-50 are, and
16 at all times relevant in this Complaint were individuals and/or business entities of
17 unknown type, are in some manner responsible for PLAINTIFFS' damages as
18 alleged herein. PLAINTIFFS will amend this Complaint to allege their true names
19 and capacities when said information is ascertained.

20 **JURISDICTION AND VENUE**

21 8. This matter is based on diversity jurisdiction pursuant to 28 U.S.C
22 §1332, in that this is a civil action between citizens of different states in which the
23 matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs.
24 PLAINTIFFS Richard M. Hughes, Richard Cook and Mary Cook are citizens of the
25 State of California. PLAINTIFF James K. Lust is a citizen of the State of South
26 Dakota. PLAINTIFFS are informed and believe and on that basis allege that
27 Defendants Ed Pendleton and Beverly Pendleton are citizens of the State of
28 Colorado.

1 9. Venue is proper in this court pursuant to 28 U.S.C. §1391 because the
2 acts and omissions of defendants complained of herein occurred within the
3 boundaries of this district.

4 **NATURE OF THE ACTION**

5 10. PLAINTIFFS are informed and believe and on that basis allege that at
6 all relevant time herein, defendants Ed Pendleton and Beverly Pendleton owned
7 real property located in Indian Wells, Riverside County California; that said
8 property was located in the Indian Wells Country Club and that these defendants
9 were members of the Indian Wells Country Club.

10 11. PLAINTIFFS are informed and believe and on that basis allege that at
11 all relevant time herein, beginning in or about 2003 and continuing, defendants Ed
12 Pendleton and Beverly Pendleton used their golf and social membership at the
13 Indian Wells Country Club to establish and facilitate social relationships with each
14 of the PLAINTIFFS, wherein they gained the trust and confidence of each of the
15 PLAINTIFFS.

16 12. PLAINTIFFS are informed and believe and on that basis allege that Ed
17 Pendleton and Beverly Pendleton used their acquired social relationship and trusted
18 friendship with each of the PLAINTIFFS to solicit money from each of them under
19 the guise of an investment in an oil and gas exploration project. All of the
20 solicitations by Defendants, and each of them, took place in Riverside County,
21 State of California.

22 13. PLAINTIFFS are informed and believe and on that basis allege that Ed
23 Pendleton stated to each PLAINTIFF at different times that he did not want any of
24 his investors to know one another, because if it they became known to each other it
25 would be discussed and other people would want to be involved with the
26 “opportunity”.

27 14. PLAINTIFFS are informed and believe and on that basis allege that Ed
28 Pendleton told each PLAINTIFF at different times that he had considerable

1 experience in oil and gas exploration and development, including the drilling,
2 completion and operation of oil and gas wells, and that he was a second generation
3 “oil man” and was known to his friends as “Fast Eddie” or “Big Oil”.

4 15. PLAINTIFFS are informed and believe and on that basis allege that
5 Defendants told each PLAINTIFF at different times that Ed Pendleton and his two
6 sons, Louis (“Lou”) Pendleton and Edmund Alan (“Al”) Pendleton, were involved
7 in a successful oil and gas exploration and development operation in Oklahoma,
8 and that he and/or his sons Lou and Al Pendleton had a long standing relationship
9 with the project operator.

10 16. PLAINTIFFS are informed and believe and on that basis allege that
11 Defendants stated to each PLAINTIFF at different times that Lou and Al Pendleton
12 also had significant experience in the oil and gas well drilling industry, including
13 significant experience drilling, completing and operating oil and gas wells in central
14 Oklahoma.

15 17. PLAINTIFFS are informed and believe and on that basis allege that Ed
16 Pendleton stated to each PLAINTIFF at different times that he and his sons, Lou
17 and Al Pendleton, were in possession of 3D seismic surveys of a certain tract of
18 land located in Oklahoma, which Ed Pendleton referred to at different times as a
19 “honey of a prospect” and/or “the big one”.

20 18. PLAINTIFFS are informed and believe and on that basis allege that Ed
21 Pendleton stated to each PLAINTIFF at different times that they would make a lot
22 of money if they invested in “his” operation.

23 19. PLAINTIFFS are informed and believe and on that basis allege that
24 Defendants, and each of them, stated to each PLAINTIFF at different times that he
25 and his sons, Lou and Al Pendleton, had their own money invested in the oil
26 exploration project for which they were soliciting money from PLAINTIFFS.

27 20. PLAINTIFFS are informed and believe and on that basis allege that Ed
28 Pendleton stated that he only invited the PLAINTIFFS to invest because the drilling

1 and production was moving so fast that he and his sons, Lou and Al Pendleton,
2 needed additional cash to keep up with the drilling and completion costs associated
3 with their interests.

4 21. PLAINTIFFS are informed and believe and on that basis allege that Ed
5 Pendleton stated to each PLAINTIFF at different times that he needed and wanted
6 investors to put their money in the prospect right alongside his money at the
7 beginning of the project.

8 22. PLAINTIFFS are informed and believe and on that basis allege that
9 Defendants provided each PLAINTIFF at different times with spreadsheets of
10 projected returns on investment and represented that those spreadsheets were
11 predicated on oil and gas wells that the Defendants and Lou and Al Pendleton were
12 involved in.

13 23. PLAINTIFFS are informed and believe and on that basis allege that Ed
14 Pendleton claimed that he and his sons, Lou and Al Pendleton, had a "significant"
15 history with the operator of the prospect, Bays Exploration, Inc. and its owner Joe
16 Bays.

17 24. PLAINTIFFS are informed and believe and on that basis allege that
18 Defendants stated to each PLAINTIFF at different times that either he or his sons
19 Lou and Al Pendleton would be on-site monitoring operations on an ongoing basis
20 and for protection of PLAINTIFFS.

21 25. Based upon the representations of Defendants, PLAINTIFFS delivered
22 a total of \$3,680,000 to Defendants for capitalization and costs related to the oil
23 exploration project.

24 26. PLAINTIFFS are informed and believe and on that basis allege that
25 Defendants' representations about the oil exploration business, PLAINTIFFS'
26 investments, and the use of PLAINTIFFS' monies, as described in this Complaint,
27 were false and/or Defendants concealed material facts from PLAINTIFFS, which
28 caused damages to PLAINTIFFS as herein alleged.

FIRST CAUSE OF ACTION

(Fraud-Intentional Misrepresentation)

(By Richard M. Hughes Against All Defendants)

27. PLAINTIFFS incorporate and re-allege, all previous paragraphs as if set forth in full herein.

28. PLAINTIFF is informed and believes and on that basis alleges that in or about March, 2005 and continuing, Defendants falsely and fraudulently misrepresented the following facts to PLAINTIFF RICHARD HUGHES:

a. That Ed Pendleton, Lou Pendleton and Al Pendleton had experience in the oil and gas well industry, including experience in the drilling and completion of oil and gas wells located in central Oklahoma.

b. That Ed Pendleton, Lou Pendleton and Al Pendleton owned a transferrable interest in an oil exploration project(s) (the "Project").

c. That Ed Pendleton, Lou Pendleton and Al Pendleton had a long standing relationship with the project operator known as "Bays Exploration".

d. That Ed Pendleton, Lou Pendleton and Al Pendleton had their own money invested in the Project(s).

e. That Ed Pendleton, Lou Pendleton and Al Pendleton owned and had purchased the seismic studies which related to the Project(s), and had the means and resources necessary to interpret these seismic studies and to provide geological and geophysical analysis of these seismic studies on the PLAINTIFFS' behalf.

f. That Ed Pendleton, Lou Pendleton and Al Pendleton had the financial resources and administrative capability to competently manage the PLAINTIFFS' investment in the Project.

g. That Ed Pendleton, Lou Pendleton and Al Pendleton would be onsite on a regular basis to oversee operations at the Project(s) and for the protection of PLAINTIFF'S investment.

1 h. That PLAINTIFF'S capital investment would be used for
2 operations and costs relating to the Project(s) and not for any other purpose,
3 including the personal use of Ed Pendleton, Lou Pendleton and/or Al Pendleton.

4 i. That the written projected returns on PLAINTIFF'S investment
5 provided by Defendants, were based on Defendants' other oil exploration projects
6 and returns.

7 29. PLAINTIFF is informed and believes and on that basis alleges that
8 these representations were in fact false and Defendant knew them to be false at the
9 time that they were made, and at all times herein mentioned.

10 30. PLAINTIFF is informed and believes and on that basis alleges that the
11 true facts were as follows:

12 a. That Ed Pendleton, Lou Pendleton and Al Pendleton did not
13 have experience in the oil and gas well industry, and did not have experience in the
14 drilling and completion of oil and gas wells located in central Oklahoma.

15 b. That Ed Pendleton, Lou Pendleton and Al Pendleton did not
16 own a transferrable interest in the Project(s).

17 c. That Ed Pendleton, Lou Pendleton and Al Pendleton did not
18 have a long standing relationship with the project operator.

19 d. That Ed Pendleton, Lou Pendleton and Al Pendleton did not
20 have any of their own money invested in the Project(s).

21 e. That Ed Pendleton, Lou Pendleton and Al Pendleton did not
22 own and had not purchased the seismic studies which related to the Project(s), and
23 did not have the means and resources necessary to interpret these seismic studies
24 and to provide geological and geophysical analysis of these seismic studies on the
25 PLAINTIFFS' behalf.

26 f. That Ed Pendleton, Lou Pendleton and Al Pendleton did not
27 have the financial resources and administrative capability to competently manage
28 the PLAINTIFFS' investment in the Project.

1 g. That Ed Pendleton, Lou Pendleton and Al Pendleton were not
2 onsite or going to be onsite on a regular basis to oversee operations at the
3 Project(s).

4 h. That PLAINTIFF'S capital investment was not used for
5 legitimate operations and costs relating to Project(s) and in fact were used for other
6 purposes, including the personal use of Ed Pendleton, Lou Pendleton and/or Al
7 Pendleton.

8 i. That the written projected returns on PLAINTIFF'S investment
9 provided by Defendants, were not based on prior performance of Defendants' other
10 oil exploration projects.

11 31. PLAINTIFF is informed and believes and on that basis alleges that
12 when Defendants made these representations they knew them to be false, and the
13 representations were made by Defendants with the intent to defraud and deceive
14 PLAINTIFF and with the intent to induce Plaintiff to invest money into the
15 Project(s).

16 32. PLAINTIFF is informed and believes and on that basis alleges that at
17 the time these representations were made by Defendants, PLAINTIFF was ignorant
18 of the falsity of Defendant's representations and believed them to be true. In
19 reliance on Defendants' representations, PLAINTIFF was induced to and did
20 transfer and otherwise invest approximately \$650,000 into the Project(s).

21 33. Had PLAINTIFF known the true facts as set forth in paragraph 30
22 herein, PLAINTIFF would not have invested any money into the Project(s).
23 PLAINTIFF did not learn the true facts until in or about December, 2012 through
24 trial testimony of Defendants in a case entitled *Bays Exploration, Inc. vs. Pensa,*
25 *Inc.* in the United States District Court for the Western District of Oklahoma.

26 34. PLAINTIFF is informed and believes and on that basis alleges that
27 PLAINTIFFS' reliance on Defendants' representations was justified because,
28 among other things, Defendants had continuously told PLAINTIFF of their

1 successes, of their solid relationship with the operator, of their returns on previous
 2 oil exploration projects and expected returns, and that they had their own personal
 3 funds in the Project(s) right along with PLAINTIFF'S investment. PLAINTIFF
 4 had no reason to disbelieve the representations by Defendants.

5 35. As a direct and proximate result of the misrepresentations and on
 6 PLAINTIFF'S reliance, PLAINTIFF has sustained and continues to sustain
 7 damages in that PLAINTIFF was induced to transfer the sum of \$650,000 to
 8 Defendants, for which PLAINTIFF has received no return of principle, interest or
 9 any profit, all to PLAINTIFF'S damage in an amount to be proven at time to trial.

10 36. PLAINTIFF is informed and believes and on that basis further alleges
 11 that Defendants' conduct constitutes malice, fraud and oppression as defined in
 12 Civil Code section 3294, and PLAINTIFF should recover, in addition to actual
 13 damages, exemplary and punitive damages to make an example of and to punish
 14 Defendants.

15 SECOND CAUSE OF ACTION

16 (Fraud-Intentional Misrepresentation)

17 (By James K. Lust Against All Defendants)

18 37. PLAINTIFFS incorporate and re-allege, all previous paragraphs as if
 19 set forth in full herein.

20 38. PLAINTIFF is informed and believes and on that basis alleges that in
 21 or about early 2003 and continuing, Defendants falsely and fraudulently
 22 misrepresented that they had paid to acquire an interest in a project known as the
 23 "Davis Filed Project" located in Garvin County Oklahoma. Thereafter, in or about
 24 October, 2006, Defendants falsely and fraudulently misrepresented the additional
 25 following facts to PLAINTIFF JAMES K. LUST:

26 a. That Ed Pendleton, Lou Pendleton and Al Pendleton had
 27 experience in the oil and gas well industry, including experience in the drilling and
 28 completion of oil and gas wells located in central Oklahoma.

1 b. That Ed Pendleton, Lou Pendleton and Al Pendleton owned a
2 transferrable interest in an oil exploration project(s) (the "Project").

3 c. That Ed Pendleton, Lou Pendleton and Al Pendleton had a long
4 standing relationship with the project operator known as "Bays Exploration".

5 d. That Ed Pendleton, Lou Pendleton and Al Pendleton had their
6 own money invested in the Project(s).

7 e. That Ed Pendleton, Lou Pendleton and Al Pendleton owned and
8 had purchased the seismic studies which related to the Project(s), and had the
9 means and resources necessary to interpret these seismic studies and to provide
10 geological and geophysical analysis of these seismic studies on the PLAINTIFFS'
11 behalf.

12 f. That Ed Pendleton, Lou Pendleton and Al Pendleton had the
13 financial resources and administrative capability to competently manage the
14 PLAINTIFFS' investment in the Project.

15 g. That Ed Pendleton, Lou Pendleton and Al Pendleton would be
16 onsite on a regular basis to oversee operations at the Project(s) and for the
17 protection of PLAINTIFF'S investment.

18 h. That PLAINTIFF'S capital investment would be used for
19 operations and costs relating to the Project(s) and not for any other purpose,
20 including the personal use of Ed Pendleton, Lou Pendleton and/or Al Pendleton.

21 i. That the written projected returns on PLAINTIFF'S investment
22 provided by Defendants, were based on Defendants' other oil exploration projects
23 and returns.

24 39. PLAINTIFF is informed and believes and on that basis alleges that
25 these representations were in fact false and Defendant knew them to be false at the
26 time that they were made, and at all times herein mentioned.

27 40. PLAINTIFF is informed and believes and on that basis alleges that the
28 true facts were as follows:

1 a. That Ed Pendleton, Lou Pendleton and Al Pendleton did not
2 have experience in the oil and gas well industry, and did not have experience in the
3 drilling and completion of oil and gas wells located in central Oklahoma.

4 b. That Ed Pendleton, Lou Pendleton and Al Pendleton did not
5 own a transferrable interest in the Project(s).

6 c. That Ed Pendleton, Lou Pendleton and Al Pendleton did not
7 have a long standing relationship with the project operator.

8 d. That Ed Pendleton, Lou Pendleton and Al Pendleton did not
9 have any of their own money invested in the Project(s).

10 e. That Ed Pendleton, Lou Pendleton and Al Pendleton did not
11 own and had not purchased the seismic studies which related to the Project(s), and
12 did not have the means and resources necessary to interpret these seismic studies
13 and to provide geological and geophysical analysis of these seismic studies on the
14 PLAINTIFFS' behalf.

15 f. That Ed Pendleton, Lou Pendleton and Al Pendleton did not
16 have the financial resources and administrative capability to competently manage
17 the PLAINTIFFS' investment in the Project.

18 g. That Ed Pendleton, Lou Pendleton and Al Pendleton were not
19 onsite or going to be onsite on a regular basis to oversee operations at the
20 Project(s).

21 h. That PLAINTIFF'S capital investment was not used for
22 legitimate operations and costs relating to Project(s) and in fact were used for other
23 purposes, including the personal use of Ed Pendleton, Lou Pendleton and/or Al
24 Pendleton.

25 i. That the written projected returns on PLAINTIFF'S investment
26 provided by Defendants, were not based on prior performance of Defendants' other
27 oil exploration projects.

28 //

1 41. PLAINTIFF is informed and believes and on that basis alleges that
2 when Defendants made these representations they knew them to be false, and the
3 representations were made by Defendants with the intent to defraud and deceive
4 PLAINTIFF and with the intent to induce PLAINTIFF to invest money into the
5 Project(s).

6 42. PLAINTIFF is informed and believes and on that basis alleges that at
7 the time these representations were made by Defendants, PLAINTIFF was ignorant
8 of the falsity of Defendant's representations and believed them to be true. In
9 reliance on Defendants' representations, PLAINTIFF was induced to and did
10 transfer and otherwise invest approximately \$400,000 into the Davis Field Project
11 and approximately \$1,500,000 into other Projects.

12 43. Had PLAINTIFF known the true fact as set forth in paragraph 40
13 herein, PLAINTIFF would not have invested any money into the Davis Field
14 Project or the other Projects. PLAINTIFF did not learn the true facts until in or
15 about December, 2012 through trial testimony of Defendants in a case entitled *Bays*
16 *Exploration, Inc. vs. Pensa, Inc.* in the United States District Court for the Western
17 District of Oklahoma.

18 44. PLAINTIFF is informed and believes and on that basis alleges that
19 PLAINTIFFS' reliance on Defendants' representations was justified because,
20 among other things, Defendants had continuously told PLAINTIFF of their
21 successes, of their solid relationship with the operator, of their returns on previous
22 oil exploration projects and expected returns, and that they had their own personal
23 funds in the Projects right along with PLAINTIFF'S investment. PLAINTIFF had
24 no reason to disbelieve the representations by Defendants.

25 45. As a direct and proximate result of the misrepresentations and on
26 PLAINTIFF'S reliance, PLAINTIFF has sustained and continues to sustain
27 damages in that PLAINTIFF was induced to transfer the sum of \$1,930,000 to
28 Defendants, for which PLAINTIFF has received minimal return of principle,

1 interest or any profit, all to PLAINTIFF'S damage in an amount to be proven at
2 time to trial.

3 46. PLAINTIFF is informed and believes and on that basis further alleges
4 that Defendants' conduct constitutes malice, fraud and oppression as defined in
5 Civil Code section 3294, and PLAINTIFF should recover, in addition to actual
6 damages, exemplary and punitive damages to make an example of and to punish
7 Defendants.

8 **THIRD CAUSE OF ACTION**

9 **(Fraud-Intentional Misrepresentation)**

10 **(By Richard Cook and Mary Cook Against All Defendants)**

11 47. PLAINTIFFS incorporate and re-allege, all previous paragraphs as if
12 set forth in full herein.

13 48. PLAINTIFFS are informed and believe and on that basis allege that in
14 or about March, 2005 and continuing, Defendants falsely and fraudulently
15 misrepresented the following facts to PLAINTIFFS RICHARD COOK and MARY
16 COOK:

17 a. That Ed Pendleton, Lou Pendleton and Al Pendleton had
18 experience in the oil and gas well industry, including experience in the drilling and
19 completion of oil and gas wells located in central Oklahoma.

20 b. That Ed Pendleton, Lou Pendleton and Al Pendleton owned a
21 transferrable interest in an oil exploration project(s) (the "Project").

22 c. That Ed Pendleton, Lou Pendleton and Al Pendleton had a long
23 standing relationship with the project operator known as "Bays Exploration".

24 d. That Ed Pendleton, Lou Pendleton and Al Pendleton had their
25 own money invested in the Project(s).

26 e. That Ed Pendleton, Lou Pendleton and Al Pendleton owned and
27 had purchased the seismic studies which related to the Project(s), and had the
28 means and resources necessary to interpret these seismic studies and to provide

1 geological and geophysical analysis of these seismic studies on the PLAINTIFFS'
2 behalf.

3 f. That Ed Pendleton, Lou Pendleton and Al Pendleton had the
4 financial resources and administrative capability to competently manage the
5 PLAINTIFFS' investment in the Project.

6 g. That Ed Pendleton, Lou Pendleton and Al Pendleton would be
7 onsite on a regular basis to oversee operations at the Project(s) and for the
8 protection of PLAINTIFF'S investment.

9 h. That PLAINTIFF'S capital investment would be used for
10 operations and costs relating to the Project(s) and not for any other purpose,
11 including the personal use of Ed Pendleton, Lou Pendleton and/or Al Pendleton.

12 i. That the written projected returns on PLAINTIFF'S investment
13 provided by Defendants, were based on Defendants' other oil exploration projects
14 and returns.

15 49. PLAINTIFFS are informed and believe and on that basis allege that
16 these representations were in fact false and Defendants knew them to be false at the
17 time that they were made, and at all times herein mentioned.

18 50. PLAINTIFFS are informed and believe and on that basis allege that
19 the true facts were as follows:

20 a. That Ed Pendleton, Lou Pendleton and Al Pendleton did not
21 have experience in the oil and gas well industry, and did not have experience in the
22 drilling and completion of oil and gas wells located in central Oklahoma.

23 b. That Ed Pendleton, Lou Pendleton and Al Pendleton did not
24 own a transferrable interest in the Project(s).

25 c. That Ed Pendleton, Lou Pendleton and Al Pendleton did not
26 have a long standing relationship with the project operator.

27 d. That Ed Pendleton, Lou Pendleton and Al Pendleton did not
28 have any of their own money invested in the Project(s).

1 e. That Ed Pendleton, Lou Pendleton and Al Pendleton did not
2 own and had not purchased the seismic studies which related to the Project(s), and
3 did not have the means and resources necessary to interpret these seismic studies
4 and to provide geological and geophysical analysis of these seismic studies on the
5 PLAINTIFFS' behalf.

6 f. That Ed Pendleton, Lou Pendleton and Al Pendleton did not
7 have the financial resources and administrative capability to competently manage
8 the PLAINTIFFS' investment in the Project.

9 g. That Ed Pendleton, Lou Pendleton and Al Pendleton were not
10 onsite or going to be onsite on a regular basis to oversee operations at the
11 Project(s).

12 h. That PLAINTIFF'S capital investment was not used for
13 legitimate operations and costs relating to Project(s) and in fact were used for other
14 purposes, including the personal use of Ed Pendleton, Lou Pendleton and/or Al
15 Pendleton.

16 i. That the written projected returns on PLAINTIFF'S investment
17 provided by Defendants, were not based on prior performance of Defendants' other
18 oil exploration projects.

19 51. PLAINTIFFS are informed and believe and on that basis allege that
20 when Defendants made these representations they knew them to be false, and the
21 representations were made by Defendants with the intent to defraud and deceive
22 PLAINTIFFS and with the intent to induce PLAINTIFFS to invest money into the
23 Project(s).

24 52. PLAINTIFFS are informed and believe and on that basis allege that at
25 the time these representations were made by Defendants, PLAINTIFFS were
26 ignorant of the falsity of Defendants' representations and believed them to be true.
27 In reliance on Defendants' representations, PLAINTIFFS were induced to and did
28 transfer and otherwise invest approximately \$1,100,000 into the Project(s).

1 58. PLAINTIFF is informed and believes and on that basis alleges that in
2 or about March, 2005 and continuing, Defendants concealed and suppressed the
3 following facts from PLAINTIFF RICHARD M. HUGHES:

4 a. That Ed Pendleton, Lou Pendleton and Al Pendleton did not
5 have experience in the oil and gas industry, and did not have experience in the
6 drilling and completion of oil and gas wells located in central Oklahoma.

7 b. That Ed Pendleton, Lou Pendleton and Al Pendleton did not
8 own any transferrable interest in the oil exploration projects ("Project") and in fact
9 were contractually prohibited from transferring any of their interest in the
10 Project(s).

11 c. That Ed Pendleton, Lou Pendleton and Al Pendleton did not
12 have any prior relationship with the Project operator.

13 d. That Ed Pendleton, Lou Pendleton and Al Pendleton did not
14 have any of their personal monies invested in the Projects for which they solicited
15 investment from PLAINTIFF.

16 e. That Ed Pendleton, Lou Pendleton and Al Pendleton did not
17 own, nor did they pay for the seismic studies that they subsequently cost billed
18 PLAINTIFF for, nor did they have the means and resources necessary to interpret
19 these seismic studies and to provide the geological and geophysical analysis that
20 they subsequently cost billed PLAINTIFF for.

21 f. That Ed Pendleton, Lou Pendleton and Al Pendleton did not
22 have the financial resources or administrative capability to competently manage the
23 PLAINTIFF's investment in the Project.

24 59. PLAINTIFF is informed and believes and on that basis alleges that
25 these concealments and suppressions of fact herein alleged to have been made by
26 Defendants were made with the intent to induce PLAINTIFF to invest the sum of
27 \$650,000 into the Project(s).

28 //

1 60. PLAINTIFF is informed and believes and on that basis alleges that
2 PLAINTIFF, at the time of these suppressions of fact, was ignorant of the
3 suppressed facts. PLAINTIFF did not learn of the suppressed facts until in or about
4 December, 2012 through trial testimony of Defendants in a case entitled *Bays*
5 *Exploration, Inc. vs. Pensa, Inc.* in the United States District Court for the Western
6 District of Oklahoma.

7 61. Had PLAINTIFF known the suppressed facts, PLAINTIFF would not
8 have invested the money with Defendants.

9 62. PLAINTIFF is informed and believes and on that basis alleges that
10 without knowledge of the suppressed facts, and in reliance on Defendants'
11 continuous statements to PLAINTIFF of their successes, of their solid relationship
12 with the operator, of their returns on previous oil exploration projects and expected
13 returns and of the fact that they had their own personal funds in the Projects right
14 along with PLAINTIFF'S investment, PLAINTIFF had no reason to disbelieve the
15 representations by Defendants.

16 63. As a direct and proximate result of Defendants' concealment
17 PLAINTIFF has sustained and continues to sustain damages in that PLAINTIFF
18 was induced to transfer the sum of \$650,000 to Defendants, for which PLAINTIFF
19 has received no return of principle, interest or any profit, all to PLAINTIFF'S
20 damage in an amount to be proven at time to trial.

21 64. PLAINTIFF is informed and believes and on that basis further alleges
22 that Defendants' conduct constitutes malice, fraud and oppression as defined in
23 Civil Code section 3294, and PLAINTIFF should recover, in addition to actual
24 damages, exemplary and punitive damages to make an example of and to punish
25 Defendants.

26 //

27 //

28 //

FIFTH CAUSE OF ACTION

(Fraud-Suppression of Fact)

(By James K. Lust Against All Defendants)

65. PLAINTIFFS incorporate and re-allege, all previous paragraphs as if set forth in full herein.

66. PLAINTIFF is informed and believes and on that basis alleges that in or about March, 2005 and continuing, Defendants concealed and suppressed the following facts from PLAINTIFF JAMES K. LUST:

a. That Ed Pendleton, Lou Pendleton and Al Pendleton did not have experience in the oil and gas industry, and did not have experience in the drilling and completion of oil and gas wells located in central Oklahoma.

b. That Ed Pendleton, Lou Pendleton and Al Pendleton did not own any transferrable interest in the oil exploration projects ("Project") and in fact were contractually prohibited from transferring any of their interest in the Project(s).

c. That Ed Pendleton, Lou Pendleton and Al Pendleton did not have any prior relationship with the Project operator.

d. That Ed Pendleton, Lou Pendleton and Al Pendleton did not have any of their personal monies invested in the Projects for which they solicited investment from PLAINTIFF.

e. That Ed Pendleton, Lou Pendleton and Al Pendleton did not own, nor did they pay for the seismic studies that they subsequently cost billed PLAINTIFF for, nor did they have the means and resources necessary to interpret these seismic studies and to provide the geological and geophysical analysis that they subsequently cost billed PLAINTIFF for.

f. That Ed Pendleton, Lou Pendleton and Al Pendleton did not have the financial resources or administrative capability to competently manage the PLAINTIFF's investment in the Project.

1 67. PLAINTIFF is informed and believes and on that basis alleges that
2 these concealments and suppressions of fact herein alleged to have been made by
3 Defendants were made with the intent to induce PLAINTIFF to invest the sum of
4 \$1,930,000 into the Project.

5 68. PLAINTIFF is informed and believes and on that basis alleges that
6 PLAINTIFF, at the time of these suppressions of fact, was ignorant of the
7 suppressed facts. PLAINTIFF did not learn of the suppressed facts until in or about
8 December, 2012 through trial testimony of Defendants in a case entitled *Bays*
9 *Exploration, Inc. vs. Pensa, Inc.* in the United States District Court for the Western
10 District of Oklahoma.

11 69. Had PLAINTIFF known the suppressed facts, PLAINTIFF would not
12 have invested the money with Defendants.

13 70. PLAINTIFF is informed and believes and on that basis alleges that
14 without knowledge of the suppressed facts, and in reliance on Defendants'
15 continuous statements to PLAINTIFF of their successes, of their solid relationship
16 with the operator, of their returns on previous oil exploration projects and expected
17 returns and of the fact that they had their own personal funds in the Projects right
18 along with PLAINTIFF'S investment, PLAINTIFF had no reason to disbelieve the
19 representations by Defendants.

20 71. As a direct and proximate result of Defendants' concealment
21 PLAINTIFF has sustained and continues to sustain damages in that PLAINTIFF
22 was induced to transfer the sum of \$1,930,000 to Defendants, for which
23 PLAINTIFF has received no return of principle, interest or any profit, all to
24 PLAINTIFF'S damage in an amount to be proven at time to trial.

25 72. PLAINTIFF is informed and believes and on that basis further alleges
26 that Defendants' conduct constitutes malice, fraud and oppression as defined in
27 Civil Code section 3294, and PLAINTIFF should recover, in addition to actual

28 //

1 damages, exemplary and punitive damages to make an example of and to punish
2 Defendants.

3 SIXTH CAUSE OF ACTION

4 (Fraud-Suppression of Fact)

5 (By Richard Cook and Mary Cook Against All Defendants)

6 73. PLAINTIFFS incorporate and re-allege, all previous paragraphs as if
7 set forth in full herein.

8 74. PLAINTIFFS are informed and believe and on that basis allege that in
9 or about March, 2005 and continuing, Defendants concealed and suppressed the
10 following facts from PLAINTIFFS RICHARD COOK and MARY COOK:

11 a. That Ed Pendleton, Lou Pendleton and Al Pendleton did not
12 have experience in the oil and gas industry, and did not have experience in the
13 drilling and completion of oil and gas wells located in central Oklahoma.

14 b. That Ed Pendleton, Lou Pendleton and Al Pendleton did not
15 own any transferrable interest in the oil exploration projects ("Project") and in fact
16 were contractually prohibited from transferring any of their interest in the
17 Project(s).

18 c. That Ed Pendleton, Lou Pendleton and Al Pendleton did not
19 have any prior relationship with the Project operator.

20 d. That Ed Pendleton, Lou Pendleton and Al Pendleton did not
21 have any of their personal monies invested in the Projects for which they solicited
22 investment from PLAINTIFF.

23 e. That Ed Pendleton, Lou Pendleton and Al Pendleton did not
24 own, nor did they pay for the seismic studies that they subsequently cost billed
25 PLAINTIFF for, nor did they have the means and resources necessary to interpret
26 these seismic studies and to provide the geological and geophysical analysis that
27 they subsequently cost billed PLAINTIFF for.

28 //

1 f. That Ed Pendleton, Lou Pendleton and Al Pendleton did not
2 have the financial resources or administrative capability to competently manage the
3 PLAINTIFF's investment in the Project.

4 75. PLAINTIFFS are informed and believe and on that basis allege that
5 these concealments and suppressions of fact herein alleged to have been made by
6 Defendants were made with the intent to induce PLAINTIFFS to invest the sum of
7 \$1,100,000 into the Project(s).

8 76. PLAINTIFFS are informed and believe and on that basis allege that
9 PLAINTIFFS, at the time of these suppressions of fact, were ignorant of the
10 suppressed facts. PLAINTIFFS did not learn of the suppressed facts until in or
11 about December, 2012 through trial testimony of Defendants in a case entitled *Bays*
12 *Exploration, Inc. vs. Pensa, Inc.* in the United States District Court for the Western
13 District of Oklahoma

14 77. Had PLAINTIFFS known the suppressed facts, PLAINTIFFS would
15 not have invested the money with Defendants.

16 78. PLAINTIFFS are informed and believe and on that basis allege that
17 without knowledge of the suppressed facts, and in reliance on Defendants'
18 continuous statements to PLAINTIFFS of their successes, of their solid relationship
19 with the operator, of their returns on previous oil exploration projects and expected
20 returns and of the fact that they had their own personal funds in the Projects right
21 along with PLAINTIFFS' investment, PLAINTIFFS had no reason to disbelieve
22 the representations by Defendants.

23 79. As a direct and proximate result of Defendants' concealment
24 PLAINTIFFS have sustained and continues to sustain damages in that
25 PLAINTIFFS were induced to transfer the sum of \$1,100,000 to Defendants, for
26 which PLAINTIFFS have received no return of principle, interest or any profit, all
27 to PLAINTIFFS' damage in an amount to be proven at time to trial.

28 //

1 85. PLAINTIFF is informed and believes and on that basis alleges that
2 Defendants, and each of them, obtain and retained these monies from PLAINTIFF
3 for wrongful use and/or with the intent to defraud PLAINTIFF.

4 86. PLAINTIFF is informed and believes and on that basis alleges that
5 Defendants' conduct constitutes financial abuse under Welfare & Institutions Code
6 § 15657.5 as defined in Welfare & Institutions Code § 15610.30.

7 87. PLAINTIFF is informed and believes and on that basis alleges that
8 Defendants are guilty of malice, oppression, fraud and recklessness in the
9 commission of the above described abuse.

10 88. PLAINTIFF is informed and believes and on that basis alleges that
11 under Welfare & Institutions Code §§ 15657(a) and/or 156757.5(a), Defendants are
12 liable to PLAINTIFF for reasonable attorney's fees and costs.

13 89. PLAINTIFF is informed and believes and on that basis alleges that
14 under Civil Code § 3294, Defendants are liable for punitive damages to
15 PLAINTIFF, as Defendants' conduct was malicious, reckless and/or despicable
16 conduct, which demonstrated a willful and conscious disregard of the rights and
17 safety of others.

18 **EIGHTH CAUSE OF ACTION**

19 **(Breach of Fiduciary Duty)**

20 **(By All Plaintiffs Against All Defendants)**

21 90. PLAINTIFFS incorporate and re-allege, all previous paragraphs as if
22 set forth in full herein.

23 91. A fiduciary relationship is any relation existing between parties to a
24 transaction wherein one of the parties is in duty bound to act with the utmost good
25 faith for the benefit of the other party. Such relation ordinarily arises where a
26 confidence is reposed by one person in the integrity of another, and in such a
27 relation to the party in whom the confidence is reposed, if he voluntarily accepts or
28 assumes to accept the confidence, can take no advantage from his acts relating to

1 the interest of the other party without the latter's knowledge or consent. *Wolf v.*
2 *Superior Court* (2003) 107 Cal.App.4th 25, 29.

3 92. PLAINTIFFS are informed and believe and on that basis allege that
4 Defendants, and each of them, owed a fiduciary duty to PLAINTIFFS, and each of
5 them.

6 93. PLAINTIFFS are informed and believe and on that basis allege that
7 Defendants, and each of them, breached the fiduciary duty to PLAINTIFFS as
8 follows:

9 a. Making the intentional misrepresentations as alleged in this
10 Complaint;

11 b. Concealing true facts from PLAINTIFFS as alleged in this
12 Complaint;

13 c. Converting and misappropriating PLAINTIFFS' monies as
14 alleged in this Complaint.

15 94. PLAINTIFF is informed and believes and on that basis alleges that
16 PLAINTIFFS, and each of them have been damaged as a result of Defendants'
17 breach of fiduciary duty.

18 95. Defendants' conduct was a substantial factor in causing PLAINTIFFS'
19 damages.

20 **PRAYER**

21 WHEREFORE, PLAINTIFFS pray for judgment for each violation alleged in
22 this complaint against Defendants, and each of them, as follows:

23 **AS TO THE FIRST CAUSE OF ACTION:**

- 24 1. For general damages in the sum of \$650,000;
25 2. For prejudgment interest on the sum of \$650,000 from and after April
26 15, 2005;
27 3. For exemplary and punitive damages according to proof at trial;
28

1 **AS TO THE SECOND CAUSE OF ACTION:**

2 4. For general damages in the sum of \$1,930,000;

3 5. For prejudgment interest on the sum of \$1,930,000 from and after
4 April 15, 2005;

5 6. For exemplary and punitive damages according to proof at trial;

6 **AS TO THE THIRD CAUSE OF ACTION:**

7 7. For general damages in the sum of \$1,100,000;

8 8. For prejudgment interest on the sum of \$1,100,000 from and after
9 April 15, 2005;

10 9. For exemplary and punitive damages according to proof at trial;

11 **AS TO THE FOURTH CAUSE OF ACTION:**

12 10. For general damages in the sum of \$650,000;

13 11. For prejudgment interest on the sum of \$650,000 from and after April
14 15, 2005;

15 12. For exemplary and punitive damages according to proof at trial;

16 **AS TO THE FIFTH CAUSE OF ACTION:**

17 13. For general damages in the sum of \$1,930,000;

18 14. For prejudgment interest on the sum of \$1,930,000 from and after
19 April 15, 2005;

20 15. For exemplary and punitive damages according to proof at trial.

21 **AS TO THE SIXTH CAUSE OF ACTION:**

22 16. For general damages in the sum of \$1,100,000;

23 17. For prejudgment interest on the sum of \$1,100,000 from and after
24 April 15, 2005;

25 18. For exemplary and punitive damages according to proof at trial.

26 **AS TO THE SEVENTH CAUSE OF ACTION:**

27 19. For compensatory damages according to proof at trial;

28 20. For double damages pursuant to Probate Code § 859;

21. For reasonable attorney's fees and costs under Welfare & Institutions
Code §§ 15657(a) and/or 156757.5(a);

22. For punitive damages under Civil Code § 3294;

AS TO THE EIGHTH CAUSE OF ACTION:

23. For compensatory damages according to proof at trial;

24. For punitive damages under Civil Code § 3294;

AS TO ALL CAUSES OF ACTION:

25. For costs of suit incurred herein;

26. For prejudgment interest according to proof; and

27. For such other and further relief as the Court may deem proper.

DEMAND FOR JURY TRIAL

PLAINTIFFS hereby demand a jury trial as provided by Rule 38(a) of the
Federal Rules of Civil Procedure.

Dated: September 5, 2013

ARCHER NORRIS



Matthew T. Ward
Attorneys for Plaintiffs
RICHARD M. HUGHES, JAMES K.
LUST, RICHARD M. COOK, MARY D.
COOK

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF ASSIGNMENT TO UNITED STATES JUDGES

This case has been assigned to District Judge Jesus G. Bernal and the assigned Magistrate Judge is Sheri Pym.

The case number on all documents filed with the Court should read as follows:

EDCV13-01605 JGB (SPx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge.

Clerk, U. S. District Court

September 6, 2013

Date

By L. Murray
Deputy Clerk

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☐ Western Division
312 N. Spring Street, G-8
Los Angeles, CA 90012

☐ Southern Division
411 West Fourth St., Ste 1053
Santa Ana, CA 92701

☒ Eastern Division
3470 Twelfth Street, Room 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

I. (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) Richard M. Hughes, James K. Lust, Richard Cook, Mary D. Cook	DEFENDANTS (Check box if you are representing yourself <input type="checkbox"/>) Ed Pendleton, Beverly Pendleton
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Matthew T. Ward (Bar No. 180016) Andreas S.V. Wotuch (Bar No. 280294) ARCHER NORRIS 4695 MacArthur Court, Suite 350 Newport Beach, CA 92660	(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)

II. BASIS OF JURISDICTION (Place an X in one box only.)

- | | |
|---|--|
| <input type="checkbox"/> 1. U.S. Government Plaintiff | <input type="checkbox"/> 3. Federal Question (U.S. Government Not a Party) |
| <input type="checkbox"/> 2. U.S. Government Defendant | <input checked="" type="checkbox"/> 4. Diversity (Indicate Citizenship of Parties in Item III) |

III. CITIZENSHIP OF PRINCIPAL PARTIES-For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant)

- | | | | | | |
|---|---|---|---|--------------------------------|--------------------------------|
| Citizen of This State | PTF <input checked="" type="checkbox"/> 1 | DEF <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State | PTF <input type="checkbox"/> 4 | DEF <input type="checkbox"/> 4 |
| Citizen of Another State | PTF <input type="checkbox"/> 2 | DEF <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | PTF <input type="checkbox"/> 5 | DEF <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | PTF <input type="checkbox"/> 3 | DEF <input type="checkbox"/> 3 | Foreign Nation | PTF <input type="checkbox"/> 6 | DEF <input type="checkbox"/> 6 |

IV. ORIGIN (Place an X in one box only.)

- | | | | | | |
|--|--|---|--|---|--|
| <input checked="" type="checkbox"/> 1. Original Proceeding | <input type="checkbox"/> 2. Removed from State Court | <input type="checkbox"/> 3. Remanded from Appellate Court | <input type="checkbox"/> 4. Reinstated or Reopened | <input type="checkbox"/> 5. Transferred from Another District (Specify) | <input type="checkbox"/> 6. Multi- District Litigation |
|--|--|---|--|---|--|

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check "Yes" only if demanded in complaint.)

CLASS ACTION under F.R.Cv.P. 23: ☐ Yes ☒ No

MONEY DEMANDED IN COMPLAINT: \$ _____

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
 Fraud / Breach of Duty

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	REAL PROPERTY CONT.	IMMIGRATION	PRISONER PETITIONS	PROPERTY RIGHTS
<input type="checkbox"/> 375 False Claims Act	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 290 All Other Real Property		<input type="checkbox"/> 530 General	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 140 Negotiable Instrument	TORTS	TORTS	<input type="checkbox"/> 535 Death Penalty	SOCIAL SECURITY
<input type="checkbox"/> 450 Commerce/ICC Rates/Etc.	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	PERSONAL INJURY	<input checked="" type="checkbox"/> 370 Other Fraud	Other:	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 470 Racketeer Influenced & Corrupt Org.	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Vet.)	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 863 DIWC/DIWW (405 (g))
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 153 Recovery of Overpayment of Vet. Benefits	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 330 Fed. Employers' Liability	BANKRUPTCY	<input type="checkbox"/> 560 Civil Detainee Conditions of Confinement	FEDERAL TAX SUITS
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 422 Appeal 28 USC 158	FORFEITURE/PENALTY	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
<input type="checkbox"/> 891 Agricultural Acts	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 350 Motor Vehicle	CIVIL RIGHTS	<input type="checkbox"/> 690 Other	
<input type="checkbox"/> 893 Environmental Matters	REAL PROPERTY	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 440 Other Civil Rights	LABOR	
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 710 Fair Labor Standards Act	
<input type="checkbox"/> 896 Arbitration	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 720 Labor/Mgmt. Relations	
<input type="checkbox"/> 899 Admin. Procedures Act/Review of Appeal of Agency Decision	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 740 Railway Labor Act	
<input type="checkbox"/> 950 Constitutionality of State Statutes		<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 445 American with Disabilities-Employment	<input type="checkbox"/> 751 Family and Medical Leave Act	
		<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 446 American with Disabilities-Other	<input type="checkbox"/> 790 Other Labor Litigation	
			<input type="checkbox"/> 448 Education	<input type="checkbox"/> 791 Employee Retaining Security Act	

FOR OFFICE USE ONLY: Case Number: **ED CV 13 - 01605**

AFTER COMPLETING PAGE 1 OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED ON PAGE 2.

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ NO ☐ YES

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ NO ☐ YES

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
- ☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
- ☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
- ☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.

☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Riverside, Los Angeles	South Dakota

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.

☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	Colorado

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose. NOTE: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Riverside	

*Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR SELF-REPRESENTED LITIGANT): _____ DATE: September 6, 2013

Matthew T. Ward

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet).

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405 (g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))

